

CH.-78

AN ORDINANCE ESTABLISHING STANDARDS FOR THE OPERATION OF TROLLEY PUBS IN CITY STREETS BY THE ADDITION OF ARTICLE XIII TO CHAPTER 78 OF THE CITY CODE

Section 1. Be it ordained by the City Council of the City of Winston-Salem, North Carolina that Article XIII of Chapter 78 of the City Code is, hereby, established as follows:

“ARTICLE XIII. – TROLLEY PUBS

Sec. 78-350 – Purpose and Scope.

The transportation of people by means of trolley pubs is a matter which affects the public interest. Due to the high volume of pedestrian and vehicular traffic in the City of Winston-Salem, it is necessary to regulate the operation of trolley pubs on City streets. The public interest requires that trolley pub operators be properly qualified, that the trolley pubs, themselves, be fit for their intended purpose and their use limited to designated areas, and that the safety and welfare of passengers and the general public be adequately protected.

The purpose of this article, therefore, is to establish a trolley pub ordinance, which: (a) regulates the use of trolley pubs on City streets, as vehicles-for-hire, (b) limits their use to the Central Business District, as defined by sec. 86-2 of the City Code, and the central industrial district, as defined by the City’s “Legacy 2030” plan, on file in the City’s Planning Department, (c) establishes standards that trolley pubs, owners, and operators must meet, and (d) promotes the safety and welfare of passengers and the general public.

Sec. 78-351 – Definitions.

The terms “certificate”, “certificate of public convenience and necessity”, “certificate holder”, “City”, “City Council”, “Department of Transportation”, “driver”, “driver’s permit”, “holder”, “holder of a certificate of public convenience and necessity”, “limousine”, “owner”, “police department”, “state”, “taxicab”, and “taxicab inspector” shall have the meanings ascribed to them in section 78-1 of Article I of this Chapter.

The following words, terms and phrases, when used in this Article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

The term “person”, when used in this Article, shall be deemed to refer to and include natural persons, corporations, limited liability companies, partnerships, sole proprietorships, and other business entities or combinations.

The term “trolley pub”, when used in this Article shall mean a motor-powered or electric-battery-assisted, open-air device, equipped with wheels, seating for a forward-seated driver, eight (8) to twelve (12) saddle-type passenger seats with bicycle-type pedals, and room for the storage of alcohol supplied by passengers. The term “trolley pub”, when used in this Article, shall not include devices which depend solely on the pedaling of passengers for forward movement.

Sec. 78-352 – Certificate of Public Convenience and Necessity Required.

No person shall drive or operate a trolley pub, and no person who owns or controls a trolley pub shall permit the trolley pub to be driven or operated, within the corporate limits of the City of Winston-Salem, unless a certificate

of public convenience and necessity has been properly issued for said vehicle, by the City, pursuant to Article II of this Chapter, and said certificate is valid and effective at the time of operation.

Prior to driving, operating, or permitting a trolley pub to be driven or operated, the owner or person who has a controlling interest in, or managerial authority over, the business that operates the trolley pub shall apply for a certificate of public convenience and necessity, according to the procedures and requirements for taxicabs and limousines set out in Article II of this Chapter. Unless otherwise indicated, the applicant shall be subject to all the provisions of Article II and section 78-4 of Article I, regarding the eligibility for, and the granting, denial, duration/expiration, renewal, increase, decrease, transfer, suspension, and revocation of, certificates of public convenience and necessity, except for those provisions which, by their express terms, pertain only to taxicabs or limousines, such as subsections 78-41(b) and 78-50(a)(16), and provided that the Assistant City Manager for Public Works shall be empowered to effectuate an immediate suspension of a certificate, as outlined in section 78-354, below. Furthermore, certificates of public convenience and necessity for the operation of trolley pubs shall only be effective for one (1) year from the date of issuance, which date shall be the date on which City Council approves the issuance of the certificate. All references to a three-year (3-year) certificate in subsection 78-51(c) of Article II shall, therefore, be deemed deleted and replaced with references to a one-year (1-year) certificate, for the purpose of this Article XIII. In case of any conflict between or among the provisions of this Article XIII and the provisions in the remainder of Chapter 78, the provisions of this Article XIII shall control.

Incomplete applications or applications that contain false or misleading information or material misstatements may be denied.

No certificate of public convenience and necessity shall be granted for any trolley pub which lacks a motor or electric battery and which depends solely on the pedaling of passengers for forward propulsion, which is not properly registered with the state, per N.C.G.S. 20-50 and 20-52, or which fails to conform with the requirements of section 78-359, below. The operation of trolley pubs which depend solely on the pedaling of passengers for forward propulsion and/or which lack a motor or electric battery is explicitly prohibited within the City limits.

Sec. 78-353 – Application for a Certificate of Public Convenience and Necessity.

In addition to complying with the requirements of Article II specified above, the applicant's application for a certificate of public convenience and necessity must include the following:

- (a) the applicant's full name,
- (b) if the applicant is an individual, the applicant's residential address,
- (c) If the applicant is a corporation, limited liability company, partnership, or other business entity, the person who will be acting as the principal in charge of the business to be issued the certificate shall sign the application, and both that person and all owners of the business entity shall meet all of the requirements for individual applicants. The signatory must submit documentation showing that they have been duly authorized to sign the application on behalf of the business entity. In addition, the applicant business entity must be properly registered with the North Carolina Secretary of State's Office and must have properly made all required filings. The applicant must submit copies of any organizing documents and the latest annual report filed with the North Carolina Secretary of State, as well as the addresses of the business entity's principal office and registered agent.,
- (d) If the applicant is a foreign business entity, the applicant must submit a copy of its certificate of authority from the North Carolina Secretary of State.,
- (e) If the applicant does business under an assumed name, the applicant must supply the fictitious name and a copy of the properly recorded dba certificate, recorded at the Forsyth County Register of Deeds.,
- (f) the applicant's date of birth,
- (g) a legible copy of the applicant's driver's license,
- (h) a certificate of insurance satisfying the requirements of this Article,
- (i) a map of the City, showing proposed routes, stands/stops, or pick-up and discharge points,

- (j) a list of each authorized driver, including that person's name, address, date of birth, a copy of their driver's license, the length of time such driver has been a resident of North Carolina, a copy of the driver's criminal history/background check, as specified in subsections 78-178 and 78-179, a copy of the driver's motor vehicle report from the Department of Motor Vehicles, and a certification that the driver shall complete the training program required by 78-357(s), below,
- (k) a description of each trolley pub to be operated under the certificate, including the trolley pub's trade and manufacturer's names, the number of seats and seat restraints/belts/tethers with which it is equipped, its serial number, if any, and its body style,
- (l) a copy of the state-issued registration card for each trolley pub to be operated under the certificate, and
- (m) such other information as the City may require.

Sec. 78-354 – Denial, Suspension, or Revocation of a Certificate of Public Convenience and Necessity.

In addition to the grounds stated in Article II for the denial, suspension, and revocation of a certificate of public and convenience and necessity, a certificate may also be denied, suspended, or revoked if a certificate holder permits any person who has been convicted of a crime or infraction listed in subsection 78-181(a)(4)(a), within the preceding three (3) years, to drive or operate a trolley pub authorized to operate under the certificate.

If there is an immediate threat to the public health, safety, or welfare, that requires an immediate suspension of the certificate, the Assistant City Manager for Public Works shall have the authority to immediately suspend the certificate, pending City Council review. A hearing shall, thereafter, be scheduled, pursuant to, and in accordance with, the requirements in subsection 78-50(b), and the ultimate disposition of the certificate shall be decided in accordance with the requirements therein. The certificate holder shall be notified of the time, date, and place for the hearing, and shall be entitled to present evidence and to make arguments concerning the factual and legal issues at the hearing.

Sec. 78-355 – Insurance.

A violation of the requirement in this section to maintain in full force and effect the applicable insurance policy, shall constitute a Class 3 misdemeanor, as provided by N.C.G.S. 14-4, and shall subject the offender to a fine of up to five hundred dollars (\$500.00) and/or possible revocation of certificates.

- (a) No person shall operate or cause to be operated any trolley pub within the City limits, without first furnishing proof of commercial insurance, with minimum limits of one million five hundred thousand dollars (\$1,500,000) in automobile liability, one million dollars (\$1,000,000.00) in commercial general liability, and one million dollars (\$1,000,000) in liquor liability, and a five million dollar (\$5,000,000) umbrella policy. The City of Winston-Salem shall be named an additional insured on the insurance policy.
- (b) No trolley pub shall be operated within the city, unless an insurance policy with an insurance company authorized to do business in North Carolina is in full force and effect, and an original, signed certificate of insurance, evidencing such policy has been filed with the City's Risk Manager, and unless the trolley pub is properly registered, and a registration card identifying the trolley pub by motor serial number is carried in the trolley pub, which certificate must be displayed upon demand by any police officer.
- (c) Each trolley pub certificate holder must provide to the City's Risk Manager, every six months, proof of insurance coverage in full force and effect, in compliance with the minimum limits set forth in subsection (a), above, for every trolley pub operated under his, her, or its certificate. Within fifteen (15) business days of receiving information concerning an upcoming insurance cancellation, reduction in coverage, or other material change in any insurance policy issued for any trolley pub

operated pursuant to his, her, or its certificate, the certificate holder shall provide written notice of said change to the City's Risk Manager. If the certificate holder does not file proof of another insurance policy before a cancellation becomes effective, use of all trolley pubs covered by the expired policy shall cease, and the certificate holder's certificate of public convenience and necessity, and other rights under this Article, shall be automatically suspended, and subject to the revocation procedure set forth in section 78-50.

(d) The requirements of this section relating to the filing of an insurance policy with the City's Risk Manager, shall be deemed to be met upon the filing of a certificate of insurance, issued by an authorized agent of an insurance company authorized to do business in North Carolina, showing that a policy of insurance, meeting the requirements of this section, has been issued to the certificate holder and is in full force and effect.

Sec. 78-356 – Driver's Permit Required; Application for a Driver's Permit; Denial, Suspension, or Revocation of a Driver's Permit.

All provisions of Article VI of this Chapter shall apply and all persons who drive, operate, own, control, or ride a trolley pub shall comply, therewith, save and except for sections 78-171, 78-173, 78-176, and 78-188, for which other language has been substituted in this Article XIII. Trolley pub drivers shall apply for and secure drivers' permits, per the requirements in Article VI, which permits shall be issued and shall be subject to denial, suspension, and revocation per the provisions of Article VI. The references to "taxicab driver's permit" in sections 78-177 and 78-178 shall be deemed to refer to the "trolley pub driver's permit" and the reference to N.C.G.S. 160A-304 in section 78-177 shall be deemed deleted, for the purpose of this section 78-356.

For purposes of this section 78-356, subsection 78-180(1) shall be deemed deleted in its entirety, and replaced with the phrase: "Be at least twenty-one (21) years of age".

Sec. 78-357 – Operation.

- (a) No person shall drive or operate a trolley pub, and no person who owns or controls a trolley pub shall permit it to be driven or operated, unless and until the driver/operator/owner, and the trolley pub and its use all comply with all the provisions of this Article. No trolley pub that is solely passenger-powered may be driven or operated within the corporate limits of the City of Winston-Salem.
- (b) No person shall drive or operate a trolley pub, and no person who owns or controls a trolley pub shall permit it to be driven or operated, without first having obtained a certificate of public convenience and necessity from the City Council, in accordance with all the requirements in Article II.
- (c) No person shall drive or operate a trolley pub, and no person who owns or controls a trolley pub shall permit it to be driven or operated, unless the trolley pub:
 - (1) has been properly registered with the state, per N.C.G.S. 20-50 and 20-52,
 - (2) has passed state and local safety inspections, per subsection 78-359(a), subsection 78-357(a), and Article V, hereof,
 - (3) has been issued a unique, non-transferable identification number, per subsections 78-359(j) and 78-360(c), and
 - (4) has obtained all requisite permits, licenses, registrations, and authorizations required by any state or local law, rule, or regulation.
- (d) No person who drives or operates a trolley pub shall drive or operate it, without first having obtained a driver's permit from the City's taxicab inspector, in accordance with all the requirements in subsections 78-177, 78-178, 78-179, and 78-180 of Article VI of this Chapter.
- (e) No person who drives or operates a trolley pub shall drive or operate it, unless that person has a valid, current North Carolina driver's license that authorizes the driver/operator to operate a vehicle-for-hire and unless that person has accrued no more than eight (8) points on his or her license during the previous

three (3) years for motor vehicle violations under N.C.G.S. 20-16 or any comparable provision of law in another state.

- (f) No person under the age of twenty-one (21) shall drive, operate, or ride a trolley pub.
- (g) No person shall drive or operate a trolley pub, and no person who owns or controls a trolley pub shall permit it to be driven or operated, upon any City street, other than a designated City street within the central business or central industrial districts of the City.
- (h) All trolley pubs and their owners, drivers, and operators are subject to, and must comply with, all applicable state and local safety, traffic, and other laws, rules, and regulations.
- (i) No person shall drive, operate, or permit a trolley pub they own or control, to be driven or operated in an unsafe condition.
- (j) No trolley pub shall be driven or operated at a speed of more than thirty-five miles per hour (35 mph).
- (k) No trolley pub shall stop, stand, or park anywhere other than at a designated trolley pub stop, designated pursuant to subsection 78-358(b), in a legal parking space, provided that any fee for occupying the space is paid, at a traffic light/signal, or at the garage or parking lot where the trolley pub is kept when not in use. Nothing in this subsection shall be construed to prohibit a trolley pub from stopping at the scene of an accident, if necessary, or from parking pending the removal of an incapacitated vehicle from the street.
- (l) No driver or operator of a trolley pub shall permit passengers to board or alight from a trolley pub in a travel lane for vehicular traffic.
- (m) No trolley pub shall be operated on a sidewalk, pedestrian walkway, greenway, or City park.
- (n) Rides must be pre-arranged and fares agreed prior to the commencement of each trip. Trolley pubs are prohibited from picking up passengers en route, who have not arranged for the transportation in advance.
- (o) No person shall employ a trolley pub for any illicit purpose.
- (p) No person shall drive, operate, or permit a trolley pub they own or control to be driven or operated by a person, under the influence of alcohol, a controlled substance, or a controlled substance analogue, as the latter two terms are defined in the North Carolina Controlled Substances Act.
- (q) No person shall drive or operate a trolley pub, unless all passengers are seated and appropriately tethered in seats and with seatbelts designed for the purpose. It shall be unlawful for a trolley pub to transport passengers who are not properly restrained or more people than the seating capacity of the vehicle allows.
- (r) Each owner, operator, and driver of a trolley pub shall implement a system for the collection, storage, and return of personal property left onboard the trolley pub, in compliance with section 78-10.
- (s) Each owner of a trolley pub shall prepare, and require all drivers and operators of said trolley pub to participate in, a training program covering, at a minimum, the safe operation of trolley pubs, compliance with state and local laws, rules, and regulations, and with this ordinance, and customer service policies.
- (t) If a trolley pub is involved in an accident or collision, the driver/operator shall immediately notify the owner (if the owner is another individual) and the police department, and shall remain at the scene of the accident/collision until the police department has investigated the incident. The owner of the trolley pub shall, thereafter, within seventy-two (72) hours of the incident, submit a comprehensive, written report to the City's taxicab inspector, detailing the circumstances of the incident and the condition of the trolley pub, post-incident. Before placing the trolley pub back into service, the owner shall have the vehicle re-inspected by the City's taxicab inspector and a certified safety inspector for safety.
- (u) If a sworn police officer has reasonable cause to believe that the operator of a trolley pub has consumed alcohol and has, thereby, impaired his or her ability to continue operating the trolley pub upon a public street, highway, thoroughfare, parking lot, or other area open to the public, the police officer may require the trolley pub operator to submit to a chemical breath analysis. It shall be unlawful for the trolley pub operator to refuse to submit to the chemical breath analysis or to fail to cooperate in its administration.
- (v) The use of sound amplification will only be permitted as is currently required/permitted in section 46-31 et seq. of the City Code.
- (w) The only alcohol which shall be permitted on a trolley pub is beer or wine supplied by passengers. No driver, operator, owner, or person in control of a trolley pub may serve, sell, or supply alcohol, of any kind, to passengers or otherwise.

Sec. 78-358 – Area of Operation and Trolley Pub Stops.

(a) Area of Operation.

- (1) Trolley pubs shall only be permitted to operate in the Central Business District, as defined by sec. 86-2 of the City Code, and in the central industrial district, as defined by the City’s “Legacy 2030” plan, on file in the City’s Planning Department.**
- (2) In no case, shall a trolley pub be permitted to operate on a street, highway, or thoroughfare with a posted speed limit greater than thirty-five miles per hour (35 mph).**
- (3) Designated areas and routes may be established, modified, or prohibited by City Council, as it deems necessary for the protection of the public safety, health, and welfare.**
- (4) A certificate holder shall file with the City Secretary’s Office a map of the areas and routes the certificate holder’s trolley pubs will traverse, along with all pick-up and discharge points.**
- (5) Operation of trolley pubs within the areas and on the routes designated in subsections (a)(1)-(4), above, shall be specifically prohibited:**
 - aa. on any date on which the City Council has authorized a street closing, therein, in connection with an approved special event permit,**
 - bb. on any sidewalk, pedestrian walkway, greenway, or City park,**
 - cc. on any street, highway, or thoroughfare with a posted speed limit of more thirty-five miles per hour (35 mph),**
 - dd. on any street, highway, or thoroughfare under the jurisdiction of the North Carolina Department of Transportation,**
 - ee. in any area now or hereafter designated as a fire lane, provided that nothing herein shall be construed to prevent a trolley pub from occupying a trolley pub stop lawfully assigned to it,**
 - ff. between the hours of 4 p.m. and 6 p.m. and between the hours of 2 a.m. and 8 a.m.**

- (b) The Public Works Committee of the City Council shall establish trolley pub stops on such streets, in such places, and in such number as the Committee determines to be of the greatest benefit and convenience to the general public. Each such stop shall be designated by appropriate signs. Trolley pubs shall stop at such trolley pub stops only for the purpose of, and for the time required to, load or unload passengers. The trolley pub stops established pursuant to this subsection shall be established at the following locations:**

It shall be unlawful for a trolley pub to stop, stand, or park anywhere other than at a designated trolley pub stop, in a legal parking space, provided that any fee for occupying the space is paid, at a traffic light/signal, or at the garage or parking lot where the trolley pub is kept when not in use, provided that nothing in this subsection shall be construed to prohibit a trolley pub from stopping at the scene of an accident, if necessary, or from parking pending the removal of an incapacitated vehicle from the street.

It shall be unlawful for any vehicle, other than a trolley pub, to stop, stand, or park at a designated trolley pub stop.

Sec. 78-359 – Vehicle Specifications.

All trolley pubs must comply with the following requirements:

- (a) Each trolley pub must be inspected by the City’s taxicab inspector prior to being placed in operation, and annually, thereafter, on the dates indicated by the City’s taxicab inspector. Each trolley pub must also be inspected by a state-certified safety inspector prior to being placed in operation, and, annually, thereafter. A trolley pub shall not be allowed to operate, unless it successfully passes state and local inspection.**
- (b) Each trolley pub must possess the structural integrity to allow it to operate safely. Trolley pubs must, at all times, be kept in safe operating condition. Prior to operation, and at the beginning of each shift, the driver/operator of the trolley pub must thoroughly inspect it to ensure that the trolley pub is in safe**

- operating condition and that all required equipment is intact. If any equipment is missing, damaged, or not properly affixed to the trolley pub and/or if the trolley pub is not in safe operating condition, the driver/operator and owner of the trolley pub must immediately remove the trolley pub from service and must correct the unsafe condition and repair, replace, or re-attach the missing, damaged, or loose equipment before placing the trolley pub back into service.
- (c) Each trolley pub must be equipped with the following equipment, which shall be maintained in functional/good working order:
- (1) front and rear turn signals,
 - (2) head lights,
 - (3) tail lights,
 - (4) a rearview mirror,
 - (5) a bell or horn, which emits a loud, clear sound,
 - (6) unbroken seats, securely fastened to the trolley pub,
 - (7) seatbelts for passengers, sufficient to securely tether passengers to their seats,
 - (8) wheels of a uniform type and size, appropriate for use on a trolley,
 - (9) reflectors, placed on each wheel and at each corner of the body of the vehicle,
 - (10) a proper braking system, approved by a state-certified safety inspector,
 - (11) a standard, functional speedometer, exposed to view,
 - (12) easily accessible emergency equipment, including a multi-functional fire extinguisher and a fully-stocked first-aid kit, and
 - (13) any other equipment required to comply with all applicable federal and state laws.
- (d) A trolley pub must not have any dents, cracks, broken or missing parts, or other visible damage.
- (e) All wheels must be firmly attached to the hub of the vehicle.
- (f) All springs, axles, and supporting structures must be intact.
- (g) Any upholstery must be made of non-absorbent, washable material, free of soil, tears, and defects.
- (h) Trolley pubs must, at all times, be kept clean and free of refuse.
- (i) The name and phone number of the trolley pub business shall be painted with permanent paint or affixed with adhesive decals to both sides of the vehicle, and shall be clearly visible from a reasonable distance.
- (j) Each trolley pub shall be issued a unique, non-transferable vehicle identification number, by the City, which must be displayed, at least four (4) inches high and visible on the exterior of both sides of the vehicle.
- (k) Each trolley pub that passes City inspection shall be issued a color-coded, adhesive decal, displaying the current year of inspection, per subsection 78-142(b). The decal must be displayed, at all times, on the exterior of the vehicle, in a manner prescribed by the City.
- (l) Each trolley pub shall display, at all times, a copy of its state-issued certificate of inspection, indicating that the vehicle has passed state inspection.
- (m) Each trolley pub must also prominently display, at all times, within plain view of the passengers, the driver's permit required by section 78-177 for the driver then operating the trolley pub.

Sec. 78-360 – Inspection, Maintenance, and Decals.

- (a) In addition to complying with the requirements of subsections 78-359(a) and (b), certificate holders must comply with all the requirements of Article V of this Chapter. Provisions, therein, pertaining to meter locks shall not apply, to the extent, thereof.
- (b) Prior to obtaining a decal from the City, pursuant to subsection 78-142(b), the certificate holder must submit to the City's taxicab inspector proof of insurance, in accordance with the requirements herein, for the trolley pub at issue and such other information as the City may require, which is not readily ascertainable from an inspection of the vehicle. The decal shall be affixed to the vehicle in a manner prescribed by the City.

- (c) Each trolley pub shall be issued a unique, non-transferable vehicle identification number, which must be displayed as required by subsection 78-359(j).

Sec. 78-361 – Addition and Removal of Vehicles.

No trolley pub shall be placed into service or returned to service following an accident, without prior, written notification to the City’s taxicab inspector. An owner may remove a trolley pub from service, at any time, but shall promptly notify the taxicab inspector, thereof.

Sec. 78-362 – Records and Reports.

Certificate holders must comply with all the requirements of Article III of this Chapter.

Sec. 78-363 – Penalties.

Penalties for violations of this Article shall be as prescribed in section 78-2. All provisions therein shall apply.

Sec. 78-364 – Miscellaneous (Appearance of Drivers; Deception of Passengers; Smoking by Drivers).

All trolley pub drivers must comply with all the provisions of sections 78-6, 78-7, and 78-8. In addition, each trolley pub driver must wear a shirt emblazoned with the name of the certificate holder’s business, for which the trolley pub driver works.

Section 2. This ordinance shall be effective upon adoption.